IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

SATURDAY, THE TWENTY EIGHTH DAY OF JANUARY
TWO THOUSAND AND SIX

PRESENT

THE HON'BLE SRI JUSTICE BILAL NAZKI

and
THE HON'BLE SRI JUSTICE D.APPA RAO

–

WRIT PETITION No.1399 of 2006

Between:

M/s. Faxtel Systems (India) Pvt.Ltd.,

616/A, B.K.Estate, Hyderabad,

rep. by its Director, Mrs.Renuka Abraham.

..... PETITIONER

AND

1.Commercial Tax Officer, Nampally, Hyderabad, and 2 others.

.....RESPONDENTS

ORDER: **(Per Hon'ble Sri Justice Bilal Nazki,)**

Heard learned Counsel for the parties. With their consent, the Writ Petition is being disposed of at this stage.

The controversy is regarding the rate of tax that has to be

levied on Facsimile (Fax) systems.

According to the learned Counsel for the petitioner, the Facsimile (Fax) equipments fall under item 11.20 of Annexure - A of the list circulated by Electronic Commission and adopted by the Government of A.P. in Memo No.23718/CT-II.2/89, dated 01.06.1989, which carry tax at the rate of 4%, whereas the learned Government Pleader for Revenue contends that these equipments fall under Item - 3 of the I Schedule to the Act, which carry tax at the rate of 16%.

It is stated at the bar that tax at the rate of 4% has already been paid by the petitioner, and the appeal is pending before the Tribunal. Pending appeal, stay application was filed before the third respondent-Additional Commissioner which was rejected.
Prima facie, we feel that the Facsimile (Fax) equipments do not fall under Item - 3 of the I Schedule to the Act.

Therefore, we allow the Writ Petition and set aside the order passed by the third respondent-Additional Commissioner in CCT's Ref.No.LIII(1)/1277/2005, dated 04-01-2006, and direct stay of recovery till disposal of the appeal. It is further directed that the disposal of the appeal be expedited. The observations are made only for the purpose of this petition and shall not be taken as expression of opinion by the appellate authority, which is hearing the appeal. No costs.

(Bilal Nazki, J)

28th January, 2006

(D.Appa Rao, J)

Note:

Wire at

party's costs

B/o

LUR